

**LAWS AND REGULATIONS RELATING TO  
LICENSURE AS A MASSAGE THERAPIST**



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## **DISCLAIMER**

The statutes and regulations provided in this booklet are an *unofficial* version of the Kentucky Revised Statutes and Kentucky Administrative Regulations and are intended for informational purposes only. The official or certified versions of the Kentucky Revised Statutes and Kentucky Administrative Regulations should be consulted for all matters requiring reliance on the statutory text.

For the official copies of the statutes and regulations pertaining to this professions, please visit <http://lrc.ky.gov>.

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## KENTUCKY REVISED STATUTES

### **309.350 Definitions for KRS 309.350 to 309.364.**

As used in KRS 309.350 to 309.364 unless the context otherwise requires:

- (1) "Board" means the Kentucky Board of Licensure for Massage Therapy;
- (2) "Board-approved massage program" means one which meets minimum standards for training and curriculum as determined by the board;
- (3) "Compensation" means the direct or indirect payment, loan, advance, donation, contribution, deposit, barter, gratuity, or gift of money or anything of value;
- (4) "Feldenkrais Method" means a system of somatic education in which touch and words are used to eliminate faulty habits, learn new patterns of self-organization and action, and improve a person's own functional movement patterns. The method is based on principles of physics, biomechanics and an understanding of, or learning about, human development. The practice is federally trademarked and requires permission from the Feldenkrais Guild to use the term and methodology;
- (5) "Massage therapist" means a person who is licensed by the board to administer massage or massage therapy to the public for compensation;
- (6) "Polarity therapy" means diverse applications affecting the human energy system. These applications include energetic approaches to somatic contact, verbal facilitation, nutrition, exercise, and health education. Polarity therapy does not make medical claims, diagnose physical ailments, or allow prescription of medications. Standards for schools, education, and practice, the administration of a code of ethics, and a registration process are provided by the American Polarity Therapy Association;
- (7) "Practice of massage therapy" means the application, by a massage therapist licensed by the board, of a system of structured touch, pressure, movement, and holding to the soft tissues of the human body with the intent to enhance or restore the health and well-being of the client. The practice includes the external application of water, heat, cold, lubricants, salt scrubs, or other topical preparations; use of electromechanical devices that mimic or enhance the actions of the hands; and determination of whether massage therapy is appropriate or contraindicated, or whether referral to another health care practitioner is appropriate; and
- (8) "Trager Approach" means a form of movement education that uses subtle directed movements and the skilled touch of a practitioner. The Trager Approach combines physical movement with sensory awareness and internal imagery designed to increase the client's self-awareness and generate physiological changes in the body tissues so as to allow the client to experience a new way of moving his or her body. The practice is federally trademarked.

**Effective:** July 15, 2010

**History:** Amended 2010 Ky. Acts ch. 112, sec. 1, effective July 15, 2010. -- Amended 2006 Ky. Acts ch. 29, sec. 1, effective July 12, 2006. -- Created 2003 Ky. Acts ch. 45, sec. 1, effective June 24, 1003; and ch. 70, sec. 1, effective June 24, 2003.

Legislative Research Commission Note (7/12/2006). Section 1 of 2006 Ky. Acts ch. 29 (Senate Bill 91) made no changes to this statute. The changes to KRS 309.350 contained in the introduced version of the bill were eliminated by Senate Floor

Amendment 1, which was adopted by the Senate, after which Senate Bill 91 was passed by both chambers with no changes to the existing text of KRS 309.350.

**Legislative Research Commission Note** (6/24/2003). 2003 Ky. Acts ch. 45, sec. 1, and 2003 Ky. Acts ch. 70, sec. 1, are substantially identical and have been codified together.

### **309.351 Prohibited acts.**

Massage therapists practicing under KRS 309.350 to 309.364 shall not perform any of the following: diagnosis of illness or disease; high-velocity, low-amplitude thrust applied to a joint; spinal or pelvic adjustment or chiropractic manipulation; deep physical agent modalities, except hydrotherapy methods; application of ultrasound; or prescription of medication.

**Effective:** June 24, 2003

**History:** Created 2003 Ky. Acts ch. 45, sec. 2, effective June 24, 2003; and ch. 70, sec. 2, effective June 24, 2003.

**Legislative Research Commission Note** (6/24/2003). 2003 Ky. Acts ch. 45, sec. 2, and 2003 Ky. Acts ch. 70, sec. 2, are substantially identical and have been codified together.

### **309.352 Scope of KRS 309.350 to 309.364.**

KRS 309.350 to 309.364 shall not preclude:

- (1) Persons duly licensed, registered, or certified as massage therapists in another state or territory, the District of Columbia, or a foreign country teaching a course related to massage therapy or consulting with a person licensed under KRS 309.350 to 309.364;
- (2) Students enrolled in a program recognized by the board and completing a clinical requirement for graduation while under the supervision of a board-licensed massage therapist or other licensed health-care professional as defined by the board in administrative regulation;
- (3) A person administering a massage to members of the person's immediate family;
- (4) Persons who restrict manipulation of the soft tissues of the human body to the hands, feet, or ears, and do not hold themselves out to be massage therapists;
- (5) Persons who use procedures within the scope of practice of their profession, which has established standards and ethics, provided that their services use touch, words, and directed movement to deepen awareness of existing patterns of movement in the body as well as to suggest new possibilities of movement while engaged, but who are not designated or implied to administer massage or to be massage therapists. These practices include, but are not limited to, the Feldenkrais Method and the Trager Approach;
- (6) Persons engaged within the scope of practice of a profession with established standards and ethics in which touch is limited to what is essential for palpation and affecting of the human energy system, provided that their services are not designated or implied to be massage or massage therapy. These practices include but are not limited to polarity therapy;
- (7) Persons duly licensed, certified, or registered in another state or territory, the District of Columbia, or a foreign country when incidentally in this state to provide service as a part of an emergency response team working in conjunction with disaster relief officials or as part of a charity event, athletic event, or artistic performance;

- (8) Students participating in massage therapy classes or continuing education while in the classroom or practicing on a classmate and not holding themselves out as massage therapists or accepting compensation for the practice; or
- (9) Practitioners of the following occupations and professions regulated by state law while engaging in the practices for which they are duly licensed and while not holding themselves out to be massage therapists:
  - (a) Physicians, osteopaths, podiatrists, and athletic trainers regulated under KRS Chapter 311;
  - (b) Chiropractors regulated under KRS Chapter 312;
  - (c) Registered nurses and practical nurses regulated under KRS Chapter 314;
  - (d) Barbers, cosmetologists, and estheticians regulated under KRS Chapters 317, 317A, and 317B respectively;
  - (e) Occupational therapists regulated under KRS Chapter 319A; and
  - (f) Physical therapists regulated under KRS Chapter 327.

**Effective:** July 15, 2010

**History:** Amended 2010 Ky. Acts ch. 112, sec. 2, effective July 15, 2010. -- Amended 2006 Ky. Acts ch. 29, sec. 2, effective July 12, 2006. -- Created 2003 Ky. Acts ch. 45, sec. 3, effective June 24, 2003; and ch. 70, sec. 3, effective June 24, 2003.

**Legislative Research Commission Note** (6/24/2003). 2003 Ky. Acts ch. 45, sec. 3, and 2003 Ky. Acts ch. 70, sec. 3, are substantially identical and have been codified together.

**309.353 License required to practice massage therapy or use titles, advertisements, or signs indicating massage therapy is provided.**

- (1) No person shall practice massage therapy or hold himself or herself out to be a massage therapist unless the person meets the educational and licensing requirements of KRS 309.358 and 309.360 and holds a valid license that has not been suspended or revoked.
- (2) A licensed massage therapist may represent himself or herself as a massage therapist or licensed massage therapist and may use the abbreviation "L.M.T." as part of or immediately following his or her name to identify the profession.
- (3) It shall be unlawful for any person, or for any business entity, its employees, agents, or representatives, to practice massage or massage therapy or to use in connection with his, her, or its name or business activity the words "massage," "massage therapy," "massage therapist," "massage practitioner," "masseur," or "masseuse," or the letters "L.M.T.," or any other words, letters, abbreviations, or insignia indicating or implying directly or indirectly that massage therapy is provided or supplied unless massage therapy is provided by a massage therapist licensed and practicing in accordance with KRS 309.350 to 309.364.
- (4) Any advertisement or sign to induce the public into believing that one is a massage therapist shall be prima facie evidence of a violation of this section if the person making the advertisement or displaying the sign is not licensed to practice massage therapy in accordance with KRS 309.350 to 309.364.

**Effective:** July 12, 2006

**History:** Amended 2006 Ky. Acts ch. 29, sec. 3, effective July 12, 2006. -- Created 2003 Ky. Acts ch. 45, sec. 4, effective June 24, 2003; and ch. 70, sec. 4, effective June 24, 2003.

**Legislative Research Commission Note** (6/24/2003). 2003 Ky. Acts ch. 45, sec. 4, and 2003 Ky. Acts ch. 70, sec. 4, are substantially identical and have been codified together.

### **309.3535 Penalty for violation of KRS 309.353.**

Any person who violates KRS 309.353 shall be guilty of a Class B misdemeanor.

**Effective:** July 12, 2006

**History:** Created 2006 Ky. Acts ch. 29, sec. 11, effective July 12, 2006.

### **309.354 Kentucky Board of Licensure for Massage Therapy -- Appointments -- Terms -- Reimbursement -- Removal.**

- (1) There is created a board to be known as the Kentucky Board of Licensure for Massage Therapy, which shall be an independent agency.
- (2) The Governor shall appoint seven (7) members to serve on the board with the following representation:
  - (a) Five (5) members who are massage therapists licensed under KRS 309.350 to 309.364, who have been in the practice of massage therapy for at least five (5) of the last seven (7) years, and who have been residents of Kentucky for at least one (1) year;
  - (b) Of these five (5), at least one (1) but no more than two (2) shall own or direct a board-approved massage therapy training program; and
  - (c) Two (2) members shall be appointed by the Governor and shall serve as members at large who are neither licensed massage therapists nor spouses of persons who are licensed, or have a direct or indirect interest in the profession regulated under KRS 309.350 to 309.364. One (1) of the two (2) may hold a license in another health care profession.
- (3) Appointments shall be for three (3) years with initial appointments as follows: three (3) appointees shall serve three (3) year terms; two (2) shall serve two (2) year terms; and two (2) shall serve one (1) year terms. The Governor shall assign terms to initial members at his or her discretion.
- (4) The board shall elect initially, and annually thereafter, a chair, vice chair, and secretary from its membership and shall meet at least once per year, and more often as deemed necessary, at a time and at a place in Kentucky for the board to fulfill its duties.
- (5) Each member of the board shall receive a per diem not to exceed one hundred dollars (\$100) and other actual and necessary expenses for each day he or she is actually engaged in the discharge of the board's official duties.
- (6) Upon recommendation of the board, the Governor may remove any member of the board for a poor attendance record, neglect of duty, or malfeasance in office.

**Effective:** July 15, 2010

**History:** Amended 2010 Ky. Acts ch. 24, sec. 1667, effective July 15, 2010; and ch. 112, sec. 3, effective July 15, 2010. -- Created 2003 Ky. Acts ch. 45, sec. 5, effective June 24, 2003; and ch. 70, sec. 5, effective June 24, 2003.

**Legislative Research Commission Note** (7/15/2010). This section was amended by 2010 Ky. Acts chs. 24 and 112, which do not appear to be in conflict and have been codified together.

**Legislative Research Commission Note** (6/24/2003). 2003 Ky. Acts ch. 45, sec. 5, and 2003 Ky. Acts ch. 70, sec. 5, are substantially identical and have been codified together.

**309.355 Powers and duties of board.**

- (1) The board shall administer and enforce the provisions of KRS 309.350 to 309.364 and shall have the responsibility to evaluate the qualifications of applicants for licensure and to authorize issuing, renewing, suspending, and revoking licenses.
- (2) The board shall investigate alleged violations brought to its attention, conduct investigations, and schedule and conduct administrative hearings in accordance with KRS Chapter 13B to enforce the provisions of KRS 309.350 to 309.364 and administrative regulations promulgated pursuant to KRS 309.350 to 309.364. The board shall have the authority to administer oaths, receive evidence, interview persons, and require the production of books, papers, documents, or other evidence. The board may institute civil and criminal proceedings against violators of KRS 309.350 to 309.364. The Attorney General, Commonwealth's attorneys, and county attorneys shall assist the board in prosecuting violations of KRS 309.350 to 309.364.
- (3) The board shall promulgate administrative regulations, pursuant to KRS Chapter 13A, to carry out and enforce provisions of KRS 309.350 to 309.364, including creating a code of ethics, standards of practice, standards of educational program curriculum and instructor qualification, and continuing education requirements for licensed massage therapists.
- (4) The board shall keep a record of its proceedings and a register of all persons licensed as massage therapists. The register shall include the name, license number and date of issue, last known place of business, and residence of each licensee. The board shall publish annually a directory of licensed massage therapists and their places of business. The list shall be available to any Kentucky citizen upon request and payment of a fee not to exceed the cost of the publication.
- (5) The board shall make an annual report to the Governor and the General Assembly, which shall contain an account of its duties performed, actions taken, and appropriate recommendations.
- (6) The board may seek an injunction in the Circuit Court of the county where the alleged violation occurred against any individual who practices massage therapy in the Commonwealth without a license.

**Effective:** July 15, 2010

**History:** Amended 2010 Ky. Acts ch. 112, sec. 4, effective July 15, 2010. -- Amended 2006 Ky. Acts ch. 29, sec. 4, effective July 12, 2006. -- Created 2003 Ky. Acts ch. 45, sec. 6, effective June 24, 2003; and ch. 70, sec. 6, effective June 24, 2003.

**Legislative Research Commission Note** (6/24/2003). 2003 Ky. Acts ch. 45, sec. 6, and 2003 Ky. Acts ch. 70, sec. 6, are substantially identical and have been codified together.

### **309.356 Revolving fund.**

- (1) All fees and other moneys received by the board pursuant to the provisions of KRS 309.350 to 309.364 shall be deposited in the State Treasury to the credit of a revolving fund for the use of the board.
- (2) No part of this revolving fund shall revert to the general funds of this Commonwealth.
- (3) The compensation of members of the board and all of the employees of the board and all expenses incurred by the board shall be paid from this revolving fund.

**Effective:** June 24, 2003

**History:** Created 2003 Ky. Acts ch. 45, sec. 7, effective June 24, 2003; and ch. 70, sec. 7, effective June 24, 2003.

**Legislative Research Commission Note** (6/24/2003). 2003 Ky. Acts ch. 45, sec. 7, and 2003 Ky. Acts ch. 70, sec. 7, are substantially identical and have been codified together.

### **309.357 Fees.**

The following fees shall be required of licensees and prospective applicants:

- (1) Application fee of fifty dollars (\$50), which shall be credited to the initial license fee for successful applicants;
- (2) Initial, nonrefundable license fee not to exceed one hundred twenty-five dollars (\$125);
- (3) Biennial renewal fees not to exceed one hundred dollars (\$100);
- (4) Late renewal fees not to exceed one hundred fifty dollars (\$150) up to sixty (60) days after expiration of license;
- (5) Sixty (60) to ninety (90) days after expiration of license, late renewal fees not to exceed two hundred dollars (\$200); and
- (6) Beyond ninety (90) days after the expiration of a license:
  - (a) Late renewal fees not to exceed two hundred dollars (\$200) if the applicant for renewal can demonstrate to the satisfaction of the board that the applicant was unable to renew in a timely manner due to circumstances beyond his or her control; or
  - (b) The application and initial, nonrefundable license fees required by subsections (1) and (2) of this section, accompanied by:
    1. A new application for licensure; and
    2. Proof of compliance with all of the requirements to practice massage therapy specified in KRS 309.358.

If the board determines that the applicant practiced on an expired license, the board may require one (1) continuing education credit per month of expiration, at the discretion of the board.

**Effective:** July 15, 2010

**History:** Amended 2010 Ky. Acts ch. 112, sec. 5, effective July 15, 2010. -- Amended 2006 Ky. Acts ch. 29, sec. 5, effective July 12, 2006. -- Created 2003 Ky. Acts ch. 45, sec. 8, effective June 24, 2003; and ch. 70, sec. 8, effective June 24, 2003.

**Legislative Research Commission Note** (6/24/2003). 2003 Ky. Acts ch. 45, sec. 8, and 2003 Ky. Acts ch. 70, sec. 8, are substantially identical and have been codified together.

### **309.358 Qualifications for license.**

The board may issue a license as a massage therapist to an applicant who:

- (1) Is eighteen (18) years of age or older;
- (2) Has paid the application fee and other fees required by the board;
- (3) Is a person of good moral character;
- (4) Has successfully completed a course of study consisting of a minimum of six hundred (600) hours of supervised instruction in a massage therapy training program approved by the board; and
- (5) Has successfully passed an examination administered by the National Certification Board for Therapeutic Massage and Bodywork or a certifying agency that has been approved by the National Commission for Certifying Agencies, or other examinations approved by the board.

**Effective:** July 15, 2010

**History:** Amended 2010 Ky. Acts ch. 112, sec. 6, effective July 15, 2010. -- Amended 2006 Ky. Acts ch. 29, sec. 6, effective July 12, 2006. -- Created 2003 Ky. Acts ch. 45, sec. 9, effective June 24, 2003; and ch. 70, sec. 9, effective June 24, 2003.

**Legislative Research Commission Note** (6/24/2003). 2003 Ky. Acts ch. 45, sec. 9, and 2003 Ky. Acts ch. 70, sec. 9, are substantially identical and have been codified together.

### **309.359 Reciprocity.**

The board may grant a license to any person who is licensed, certified, or registered in another state of the United States that has standards at least as stringent as those required by KRS 309.358. The board may grant a license by endorsement to applicants licensed, certified, or registered in another state of the United States that has lesser standards than Kentucky's if the board determines that the applicant's combined initial training, professional experience, continuing education, or other credentials constitute an equivalent to the standards in KRS 309.358. Applicants who are not from a state that has standards at least as stringent as those required by KRS 309.358 may appeal to the board for a hearing to determine if their experience and education meet the criteria.

**Effective:** July 12, 2006

**History:** Amended 2006 Ky. Acts ch. 29, sec. 7, effective July 12, 2006. -- Created 2003 Ky. Acts ch. 45, sec. 10, effective June 24, 2003; and ch. 70, sec. 10, effective June 24, 2003.

**Legislative Research Commission Note** (6/24/2003). 2003 Ky. Acts ch. 45, sec. 10, and 2003 Ky. Acts ch. 70, sec. 10, are substantially identical and have been codified together.

### **309.361 Renewal -- Continuing education requirements.**

- (1) When renewing a license, each licensee shall document the successful completion of the required board-approved continuing education credits. Twenty-four (24) hours of training shall be required for each two (2) year renewal period. A maximum of twelve (12) additional hours may be carried over into the next renewal period. Courses may include ethics, business practices, science, and techniques related to massage therapy.

- (2) Waivers or extensions of continuing education may be approved at the discretion of the board.

**Effective:** July 12, 2006

**History:** Amended 2006 Ky. Acts ch. 29, sec. 8, effective July 12, 2006. -- Created 2003 Ky. Acts ch. 45, sec. 12, effective June 24, 2003; and ch. 70, sec. 12, effective June 24, 2003.

**Legislative Research Commission Note** (6/24/2003). 2003 Ky. Acts ch. 45, sec. 12, and 2003 Ky. Acts ch. 70, sec. 12, are substantially identical and have been codified together.

**309.362 Grounds for refusal to issue or renew a license, suspension or revocation of a license, administrative reprimand, or probation -- Issuance and renewal of inactive licenses -- Fee.**

- (1) The board may deny or refuse to renew a license, may suspend or revoke a license, may issue an administrative reprimand, or may impose probationary conditions or fines not to exceed five hundred dollars (\$500) when the licensee has engaged in unprofessional conduct that has endangered or is likely to endanger the health, welfare, or safety of the public. Unprofessional conduct shall include the following:
  - (a) Obtaining or attempting to obtain a license by fraud, misrepresentation, concealment of material facts, or making a false statement to the board;
  - (b) Being convicted of a felony in any court if the act or acts for which the licensee or applicant for license was convicted are determined by the board to have a direct bearing on whether the person is trustworthy to serve the public as a licensed massage therapist. "Conviction," as used in this paragraph, shall include a finding or verdict of guilty, an admission of guilt, or a plea of nolo contendere in a court of law;
  - (c) Violating any lawful order or administrative regulation promulgated by the board;
  - (d) Violating any provision of this chapter or administrative regulations promulgated thereunder;
  - (e) Having sexual contact as defined by KRS 510.010(7) with a client or having engaged or attempted to engage in lewd or immoral conduct with any client or patient;
  - (f) Engaging in fraud or material deception in the delivery of professional services, including reimbursement or advertising services, in a false or misleading manner;
  - (g) Evidence of gross negligence or gross incompetence in the practice of massage therapy; or
  - (h) Violating the standards of practice or the code of ethics as promulgated by administrative regulations.
- (2) Any licensed massage therapist who does not desire to meet the qualifications for active license renewal shall, upon application and payment of an inactive renewal fee, be issued an inactive license. The license shall not entitle the license holder to use the term "licensed massage therapist," nor to engage in the practice of massage therapy. The inactive renewal fee shall not exceed fifty dollars (\$50) annually.
- (3) To regain active status, the licensee shall upon application show completion of one (1) hour of continuing professional education for each month the license has been in an inactive state not to exceed five (5) years. Waivers or extensions of continuing education

may be approved at the discretion of the board. Beyond five (5) years, the licensee shall meet the requirements in KRS 309.358.

- (4) The board may, at its discretion, deny, refuse to renew, suspend or revoke a license, or impose probationary conditions following an administrative hearing pursuant to
- (5) The surrender of a license shall not deprive the board of jurisdiction to proceed with disciplinary actions under KRS 309.350 to 309.364.

**Effective:** July 12, 2006

**History:** Amended 2006 Ky. Acts ch. 29, sec. 9, effective July 12, 2006. -- Created 2003 Ky. Acts ch. 45, sec. 13, effective June 24, 2003; and ch. 70, sec. 13, effective June 24, 2003.

**Legislative Research Commission Note** (6/24/2003). 2003 Ky. Acts ch. 45, sec. 13, and 2003 Ky. Acts ch. 70, sec. 13, are substantially identical and have been codified together.

### **309.363 Board approval of massage therapy program of instruction -- Requirements -- Continuing education guidelines.**

- (1) A person, institution, or business entity offering a massage therapy program of instruction shall file a completed application for a certificate of good standing with the board on a form prescribed by the board and pay a fee as specified in KRS 309.357. The completed application shall provide proof acceptable to the board that the following criteria have been met:
  - (a) The school is licensed to operate by the Kentucky State Board for Proprietary Education, the Council on Postsecondary Education, or their equivalent in another state;
  - (b) A curriculum statement showing clock hours devoted to each subject with the following minimums:
    - 1. One hundred twenty-five (125) hours of anatomy, physiology, or kinesiology;
    - 2. A two hundred (200) hour course to include massage theory, technique, and practice focusing on gliding strokes, kneading, direct pressure, deep friction, joint movement, superficial warming techniques, percussion, compression, vibration, jostling, shaking, and rocking;
    - 3. Two hundred (200) hours of approach to the business of massage, specifically including contraindications, benefits, business, history, ethics, client documentation, legalities of massage, and modality courses designed to meet the school's specific program objectives;
    - 4. Forty (40) hours of pathology; and
    - 5. The school may use its discretion in allotting the additional thirty-five (35) curricular hours that are required under KRS 309.358;
  - (c) A listing of instructional staff and their qualifications as follows:
    - 1. Instructors of the practical courses shall be licensed massage therapists and shall have three (3) years of experience in the practice of massage therapy;
    - 2. Instructors of science courses shall be either licensed massage therapists with three (3) years of experience in the practice of massage therapy or have certification or specific higher education in the subject they are teaching; and
    - 3. Instructors in adjunctive courses shall have subject-specific education and experience.

- (2) The board shall accept National Certification Board for Therapeutic Massage and Bodywork guidelines in approving continuing education.

**Effective:** July 15, 2010

**History:** Amended 2010 Ky. Acts ch. 112, sec. 7, effective July 15, 2010. -- Amended 2006 Ky. Acts ch. 29, sec. 10, effective July 12, 2006. -- Created 2003 Ky. Acts ch. 45, sec. 14, effective June 24, 2003; and ch. 70, sec. 14, effective June 24, 2003.

**Legislative Research Commission Note** (6/24/2003). 2003 Ky. Acts ch. 45, sec. 14, and 2003 Ky. Acts ch. 70, sec. 14, are substantially identical and have been codified together. The phrase "joint movement" in subparagraph (b) 2. of subsection (1) of ch. 70, sec. 14, which passed the General Assembly last, prevails over "joint mobilization" in the same subparagraph of ch. 45, sec. 14. See KRS 446.250.

### **309.3631 Annual renewal of certificate of good standing.**

- (1) A person, institution, or business entity offering a massage therapy program of instruction shall renew a certificate of good standing annually.
- (2) During the renewal process, the person, institution, or business entity shall submit to the board documentation of program updates, personnel changes, graduation rates, and licensing examination rates.

**Effective:** July 15, 2010

**History:** Created 2010 Ky. Acts ch. 112, sec. 8, effective July 15, 2010.

### **309.364 Preemption of local regulation -- No effect on local zoning requirements or occupational license fees.**

- (1) KRS 309.350 to 309.364 supersede all ordinances or regulations regulating massage therapists in any city, county, urban-county, charter county, or consolidated local government.
- (2) This article does not affect city, county, urban-county, charter county, or consolidated local government regulations relating to zoning requirements or occupational license fees pertaining to health care professions.

**Effective:** June 24, 2003

**History:** Created 2003 Ky. Acts ch. 45, sec. 15, effective June 24, 2003; and ch. 70, sec. 15, effective June 24, 2003.

**Legislative Research Commission Note** (6/24/2003). 2003 Ky. Acts ch. 45, sec. 15, and 2003 Ky. Acts ch. 70, sec. 15, are substantially identical and have been codified together.

## KENTUCKY ADMINISTRATIVE REGULATIONS

### **201 KAR 42:010. Goals for massage therapy sessions.**

RELATES TO: KRS 309.350(7),, 309.355(3)

STATUTORY AUTHORITY: KRS 309.355(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 309.355(3) requires the board to promulgate administrative regulations setting standards of practice. This administrative regulation establishes the goals of massage therapy and possible means of achieving these goals.

Section 1. (1) Goals for massage therapy shall include:

- (a) Maintaining health;
  - (b) Providing relaxation;
  - (c) Preserving or increasing functional capacity;
  - (d) Diminishing soft-tissue pain arising from stress, anxiety, adhesions, and overuses; and
  - (e) Providing treatment that is professionally appropriate for the client.
- (2) In order to reach these objectives, the massage therapist shall:
- (a) Provide consultation with a client or a referring professional on soft-tissue issues;
  - (b) Evaluate clients for the appropriate approaches for each session;
  - (c) Plan sessions;
  - (d) Provide direct treatment; and
  - (e) Provide draping and treatment in a way that ensures the safety, comfort, and privacy of the client.
- (3) With client permission, the massage therapist may interact with the client's physician or other healthcare providers if the client is under direct medical care.

### Section 2. Client Management.

- (1) The massage therapist shall:
- (a) Evaluate each client through:
    - 1. Intake interviews;
    - 2. Observation;
    - 3. Palpation; and
    - 4. Relevant records provided by the client;
  - (b) Plan and implement a treatment session or program individualized for the client; and
  - (c) Refer to a licensed healthcare provider any client whose condition is determined by the massage therapist to be beyond the therapist's scope of practice.
- (2) If the basis for a massage appointment is a referral from a healthcare provider, the massage therapist may confer with the referring healthcare provider after obtaining the client's permission.
- (3) If the client is self-referred and under the care of a doctor, the massage therapist may seek permission to:
- (a) Advise the doctor that the patient is seeking massage treatment;
  - (b) Provide to the doctor the massage therapist's evaluation results;
  - (c) Advise the doctor of the noted treatment plan; and

- (d) Provide a follow-up report upon completion of the massage treatment plan to enhance communication between the multidisciplinary care-giving team. (32 Ky.R. 1015; 1226; eff. 2-3-2006; 37 Ky.R. Am. 1009; 1695; 1989; eff. 3-4-2011.)

## **201 KAR 42:020. Fees.**

RELATES TO: KRS 309.357, 309.362(2), (3)

STATUTORY AUTHORITY: KRS 309.355(3), 309.357

NECESSITY, FUNCTION, AND CONFORMITY: KRS 309.355(3) requires the board to promulgate administrative regulations to implement KRS 309.350 to 309.364. KRS 309.357 requires the board to establish reasonable fees for the licensure of massage therapists. KRS 309.362(2) and (3) authorize the issuance of an inactive license and reinstatement. This administrative regulation establishes the fees relating to massage therapy (MT) licensure.

Section 1. Fee Payments. (1) All fees established in Section 2 of this administrative regulation shall be:

(a) Made payable as required by KRS 309.356 to the State Treasury; and

(b) Paid by:

1. Cashier's check;
2. Certified check;
3. Money order;
4. Personal check; or
5. Online payment by credit card, debit card, or electronic check.

(2) A payment for an application fee that is incorrect shall be returned to the applicant and the application shall not be posted until the correct fee is received.

(3) The application fee and the initial licensure fee established in Section 2(1) of this administrative regulation shall be nonrefundable.

(4) If it is determined that a refund of any fee is required, the refund shall be issued to the applicant or licensee.

Section 2. Fees. (1) The fee for an initial massage therapist license shall be \$125.

(2)(a) The biennial renewal fee for a massage therapist license renewed on or before the renewal date shall be \$100.

(b) If the license is renewed after the renewal date and up to sixty (60) days after expiration of the license, the fee for late renewal shall be \$150.

(c) If the license is renewed sixty-one (61) to ninety (90) days after the expiration of the license, the late renewal fee shall be \$200.

(d) If a license is not renewed within ninety (90) days of expiration of the license, the applicant shall comply with KRS 309.357(6).

(3) A licensee shall be in good standing with the board at the time the licensee elects inactive status.

(4)(a) The annual renewal date for an inactive license shall remain the original issue date of the license.

(b) The annual renewal fee for an inactive license shall be thirty-five (35) dollars.

(5) If the inactive license is renewed after the renewal date and up to sixty (60) days after expiration of the license, the fee for late inactive renewal shall be \$52.50.

(6) If the inactive license is renewed sixty-one (61) to ninety (90) days after the expiration of the license, the late renewal fee shall be seventy (70) dollars.

(7) The application fee for moving a license from Inactive to Active status shall be fifty (50) dollars and shall not be prorated.

(8) A licensee who elects inactive status or an inactive licensee electing to activate his or her license shall complete and submit an Application for Inactive or Return to Active Status in addition to the fee referenced in subsection (7) of this section.

Section 3. Incorporation by Reference. (1) "Application for Inactive or Return to Active Status", April 2013, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Division of Occupations and Professions, 911 Leawood Drive, Frankfort, Kentucky 40601, Monday through Friday, 8:00 a.m. to 4:30 p.m. (30 Ky.R. 2245; Am. 31 Ky.R. 30; eff. 8-6-2004; 33 Ky.R. 1882; 2934; eff. 4-6-07; 37 Ky.R. 1011; 1696; 1988; eff. 3-4-2011; 39 Ky.R. 1935; 2163; eff. 5-31-2013.)

#### **201 KAR 42:030. Licensee's change of name, home address, or place of business.**

RELATES TO: KRS 309.355(4)

STATUTORY AUTHORITY: KRS 309.355(4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 309.355(4) requires the board to keep a register of all persons licensed as massage therapists. KRS 309.355(3) requires the board to promulgate administrative regulations to implement KRS 309.350 through 309.364. This administrative regulation establishes the mechanism for a massage therapist to change the name, home address, or place of business under which the therapist is originally licensed.

Section 1. A massage therapist licensed pursuant to KRS Chapter 309 shall notify the board electronically or in writing of any change in the person's name, home address, or place of business within thirty (30) days after the change has taken place.

Section 2. A name change shall be made only after submission of a legal document that authorizes the change. (32 Ky.R. 1016; eff. 2-3-2006; 37 Ky.R. 1012; 1989; eff. 3-4-2011.)

#### **201 KAR 42:035. Application process, exam, and curriculum requirements.**

RELATES TO: KRS 309.358, 309.359, 309.362, 309.363

STATUTORY AUTHORITY: KRS 309.355(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 309.355(3) requires the board to promulgate administrative regulations to implement KRS 309.350 to 309.364. The board is required to issue a license to an applicant meeting the standards established in KRS 309.358 or 309.359. This administrative regulation establishes the application process and curriculum requirements for licensure.

Section 1. An applicant for licensure as a massage therapist shall:

(1) File a completed, signed, and dated Application for Licensure as a Massage Therapist, and the required documentation with the board, meeting the requirements set forth in KRS 309.358; and

(2) Pay the application fee as established in 201 KAR 42:020.

Section 2. To comply with KRS 309.358(4), an applicant shall submit to the board, at the time of application, an official transcript or certificate that shows the completion of at least 600 classroom hours, itemizing compliance with the clock hour requirements established in KRS 309.363(1).

Section 3. Examinations. (1) An applicant shall successfully pass an examination:

(a) Listed in KRS 309.358(5); or

(b) Approved by the board pursuant to KRS 309.358(5) and listed in subsection (4) of this section.

(2) An examination shall be approved by the board as meeting the standard established in KRS 309.358(5) if the board determines that the examination:

(a) Has been scientifically constructed to be valid and objective;

(b) Reflects the curriculum content established in KRS 309.363(1);

(c) Has security procedures to protect the exam content; and

(d) Has clear application, reporting, and appeal procedures.

(3) Approval of exams shall be noted in the board minutes and on the board Web site.

(4) The following examinations have been approved by the Board pursuant to KRS 309.358(5):

(a) The Massage and Bodywork Licensing Examination (MBLEx) or other exam administered by the Federation of State Massage Therapy Boards;

(b) The State of Ohio Massage Therapy Licensing Exam;

(c) The State of New York Massage Therapy Licensing Exam; or

(d) The National Certification Agency (NBCA) Massage Therapy Certification Exam, level one.

Section 4. Appeals. An applicant may appeal a decision denying his or her licensure application in accordance with KRS 309.362(4).

Section 5. Incorporation by Reference. (1) The "Application for Licensure as a Massage Therapist", April 2013, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at Division of Occupations and Professions, 911 Leawood Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. (30 Ky.R. 2417; Am. 31 Ky.R. 31 eff. 8-6-2004; 33 Ky.R. 1883; 2934; eff. 4-6-07; 37 Ky.R. 1013; 1697; 1990; eff. 3-4-2011; 38 Ky.R. 93; eff. 11-4-11; 39 Ky.R. 1936; 2152; eff. 5-31-2013.)

## **201 KAR 42:040. Renewal.**

RELATES TO: KRS 309.357(3), (4), (5), (6), 309.361, 309.362

STATUTORY AUTHORITY: KRS 309.355(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 309.355(3) requires the board to promulgate administrative regulations to implement KRS 309.350 to 309.364. KRS 309.357(3) requires all licenses to be renewed. This administrative regulation establishes the requirements for renewal of licenses.

Section 1. A license to practice massage therapy shall be renewed upon:

(1) Payment of the biennial renewal fee as established in 201 KAR 42:020, Section 2(2), on or before the anniversary date of issue of license; and

(2) Submission to the board of the Application for Renewal form and the following written information:

(a) Current complete home address and telephone number;

(b) Current complete name, address, and telephone number of each location in which massage therapy service is provided;

(c) A list indicating completion of the continuing education units taken during the licensure renewal period as required by 201 KAR 42:110. The list shall:

1. Itemize the number of clock hours credited for each course; and

2. Designate the courses that fulfill the three (3) required hours of ethics training; and

(d) Confirmation that, since the license was issued or renewed, the licensee has not:

1. Been convicted of a felony;

2. Had his or her license disciplined and is not currently under disciplinary review in another state; or

3. Defaulted on the repayment obligation of financial aid programs administered by the Kentucky Higher Education Assistance Authority (KHEAA) per KRS 164.772.

Section 2. A licensee convicted of a felony or disciplined in the interim period between issuance and renewal of the license, or between renewal periods, shall submit notice of the conviction or discipline to the board within sixty (60) days of the discipline or conviction.

Section 3. If payment and complete information are not received by the board on or before the anniversary date of the issuance of the license, the license shall expire and the person shall not practice nor represent themselves as a massage therapist in Kentucky.

Section 4. An expired license shall be renewed within ninety (90) days of expiration if the applicant submits:

(1) A completed Application for Renewal form;

(2) Documentation of successful completion of twenty-four (24) hours of continuing professional education, which:

(a) Includes studies in ethics, business practices, science, and techniques related to massage therapy;

(b) Have been credited within two (2) years prior to the renewal deadline; and

(c) Have not been previously used within the same renewal period to satisfy Kentucky license renewal requirements; and

(3) The appropriate fee for renewal, as required by 201 KAR 42:020, Section 2(2), (5), or (6).

Section 5. (1) Upon initial licensing, a licensee shall be furnished a wall certificate which shall be displayed at the primary massage therapy service location.

(2) A licensee shall provide verification of current licensure upon request if he or she is currently engaged in the practice of massage therapy, intends to engage within a reasonable time in the practice of massage therapy, or has engaged in the practice of massage therapy immediately prior to the request.

(3) Official verification of licensure status shall be available on the board's Web site.

Section 6. Reactivation Requirement for Inactive Status Massage Therapist. (1)(a) Before the expiration of five (5) years of inactive status, a licensee requesting to return to active status shall:

1. Provide proof to the board of continuing education required by KRS 309.362(3). At least three (3) of the continuing education hours submitted shall be focused on the area of ethics;
2. Complete the Application for Renewal; and
3. Pay the fee prescribed by 201 KAR 42:020, Section 2(7).

(b) The continuing education hours provided pursuant to paragraph (a)1 of this subsection may be used for the next regular renewal period.

(2) After more than five (5) years of inactive status, a person requesting to return to active status shall reapply as required by KRS 309.362(3).

Section 7. Incorporation by Reference. (1) "Application for Renewal", February 2013, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Division of Occupations and Professions, 911 Leawood Drive, Frankfort, Kentucky 40602, (502) 564-3296, Monday through Friday, 8 a.m. to 4:30 p.m. (32 Ky.R. 1017; Am. 1226; eff. 2-3-2006; 33 Ky.R. 1885; 2935; eff. 4-6-2007; 37 Ky.R. 1699; 1991; eff. 3-4-2011; 38 Ky.R. 1657; 1856; eff. 6-1-2012; 39 Ky.R. 1938; eff. 5-31-2013.)

### **201 KAR 42:050. Complaint procedure and disciplinary action.**

RELATES TO: KRS 309.351, 309.355(1), (2), (6), 309.362

STATUTORY AUTHORITY: KRS 309.355(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 309.355(1) requires the board to regulate the practice of massage therapy. KRS 309.355(2) requires the board to investigate every alleged violation and take appropriate action. This administrative regulation establishes the procedure for filing a complaint and the action to be taken by the board on a complaint and disciplinary action of a licensee or applicant in violation of KRS 309.351 or 309.362.

#### **Section 1. Definitions.**

(1) "Complaint committee" means a committee of the board that:

- (a) Reviews an initiating complaint; and
- (b) 1. Recommends dismissal or further investigation of the complaint; or  
2. Determines the existence of sufficient evidence to bring a formal complaint.

(2) "Formal complaint" means a formal administrative pleading authorized by the board that sets forth a charge against a licensee or applicant and commences a formal disciplinary proceeding under KRS Chapter 13B.

- (3) "Initiating complaint" means a written complaint alleging a violation of KRS 309.350 through 309.364.
- (4) "Respondent" means the person against whom an initiating complaint or formal complaint has been made.

#### Section 2. Initiating Complaint.

- (1) A complaint may be initiated by:
  - (a) An individual;
  - (b) A state or government agency;
  - (c) Another member of the massage therapy profession; or
  - (d) The board.
- (2) An initiating complaint shall be made in writing to the board and received in the board office.
- (3) The board may conduct an investigation on its own initiative, without receipt of a complaint, if the board has reason to believe that there may be a violation of KRS 309.350 through 309.364, or administrative regulations promulgated in relation thereto.
- (4) A certified copy of a court record for conviction of a misdemeanor or felony shall be considered a valid reason for an initiating complaint. The complaint shall be submitted on a Form to File a Complaint or Unlicensed Activity Report.

#### Section 3. Procedure Upon Receipt of Initiating Complaint.

- (1) Upon receipt of the initiating complaint, the board office shall send a copy of the initiating complaint to the respondent at the respondent's last address of record with the board.
- (2) The respondent shall file a response to the initiating complaint with the board within twenty (20) days after the board mails the initiating complaint to the respondent.
- (3) The allegations in an initiating complaint shall be considered true if the respondent fails to respond to the initiating complaint in a timely fashion.

#### Section 4. The complaint committee shall:

- (1) Review the initiating complaint and the response filed by the respondent at its next meeting; and
- (2) Recommend one (1) of the following options to the board at the board's next meeting:
  - (a) Dismissal;
  - (b) Further investigation;
  - (c) Issuance of a formal complaint; or
  - (d) Referral to another government agency.
- (3) A complaint committee member having any known conflict of interest shall be recused from the matter and disclose the existence of the conflict in a regular board meeting.

Section 5. Board Action upon Recommendation of Complaint Committee. At the board's next meeting following review by the complaint committee, the board shall review the committee's recommendations and shall accept or reject the recommendations in whole or in part.

Section 6. Dismissals. The complainant and respondent shall be notified if a case is dismissed.

#### Section 7. Investigations.

- (1) If investigation is warranted, the board shall appoint one (1) of its members or an agent or representative of the board to conduct an investigation of the respondent.
- (2) In its investigation, the board may be assisted by:
  - (a) Board staff;
  - (b) A board agent; or
  - (c) The Office of the Attorney General.

#### Section 8. Formal complaints. If the board finds that sufficient evidence exists to file a formal complaint, the board shall:

- (1) Resolve the case informally by agreed order; or
- (2) File a formal complaint, in accordance with KRS Chapter 13B.

#### Section 9. Settlement by Informal Proceedings.

- (1) The board, through counsel, may enter into informal discussions or negotiations with the respondent for the purpose of appropriately dispensing with the matter.
- (2) An agreed order or settlement reached through informal proceedings shall be approved by the board and signed by the chair of the board, the respondent and the respondent's attorney. A copy shall be placed in the licensee's file and a copy shall be mailed to the complainant.
- (3) The board may employ mediation as a method of resolving the matter informally.

#### Section 10. Procedures for Disciplinary Hearings.

- (1) All procedures for disciplinary hearings shall conform to KRS Chapter 13B.
- (2) Testimony to be considered by the board, hearing panel, or hearing officer, if any, may be taken by deposition. A party or witness may be allowed to testify by deposition, rather than attend the hearing, upon a showing of inability to attend and a showing that other parties shall have an opportunity to cross-examine at the deposition. The presiding officer or hearing officer, if any, shall rule upon motions to allow testimony to be considered by deposition, subject to review and approval by the board.
- (3) The presiding officer or hearing officer, if any, may order that at least five (5) days prior to the hearing, each party shall file a summary of each witness' expected testimony.

#### Section 11. Final Disposition. Upon reaching a decision, the board shall notify the respondent in writing, by certified mail or personal service, of its final disposition of the matter and the complainant shall be notified by regular mail.

#### Section 12. Incorporation by Reference.

- (1) The following material is incorporated by reference:
  - (a) "Form to File a Complaint", January 2011; and
  - (b) "Unlicensed Activity Report", January 2011.
- (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Division of Occupations and Professions, 911 Leawood Drive, Frankfort, Kentucky 40602, (502) 564-3296, Monday through Friday, 8 a.m. to 4:30 p.m. (32 Ky.R. 1019; 1227; eff. 2-3-2006; 37 Ky.R. 1016; 1700; 1992; eff. 3-4-2011.)

**201 KAR 42:060. Code of ethics and standards of practice for massage therapists.**

RELATES TO: KRS 309.355(3), 309.362

STATUTORY AUTHORITY: KRS 309.355(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 309.355(3) requires the Board of Licensure for Massage Therapy to establish by administrative regulation a code of ethics and standards of practice for massage therapists. This administrative regulation establishes those standards, which, if violated, are a basis for disciplinary action under KRS 309.362.

Section 1. Code of Ethical Standards for the Massage Therapist. A massage therapist shall:

- (1) Maintain the confidentiality of all client information, unless law or court order mandates disclosure;
- (2) Keep the client well informed of procedures and methods that will be employed during the session;
- (3) Report to the board if the massage therapist has first-hand knowledge or evidence indicating any unethical, incompetent, or illegal act has been committed by another licensee;
- (4) Take precautions to do no harm to the physical, mental, and emotional well being of clients or associates;
- (5) Make every reasonable effort to report unlicensed practice of massage therapy to the board;
- (6) Represent his or her educational and professional qualifications honestly;
- (7) Inform clients of the limitations of the licensee's practice;
- (8) Consistently take measures to improve professional knowledge and competence by a regular assessment of personal and professional strengths and weaknesses through continuing education training;
- (9) Respect the client's right to treatment with informed and voluntary consent, either verbal or written, and to refuse, modify, or terminate treatment regardless of prior consent;
- (10) Not initiate or engage in sexual conduct or activities with a client;
- (11) Not engage in an interest, activity, or influence that conflicts with the practitioner's obligation to act in the best interest of the client;
- (12) Respect the client's boundaries with regard to privacy, disclosure, exposure, emotional expression, beliefs, and reasonable expectations of professional behavior;
- (13) Refuse to accept gifts or benefits, which are intended to influence a referral or treatment that are purely for personal gain and not for the good of the client;
- (14) Conduct all business and professional activities with honesty and integrity;
- (15) Respect the inherent worth of all clients;
- (16) Provide only those services that the licensee is qualified to perform; and
- (17) Respect the client's autonomy.

Section 2. Standards of Practice for the Massage Therapist. In the practice of massage therapy, a massage therapist shall:

- (1) Perform a written or verbal intake interview with the client to determine whether any contraindications to massage therapy exist and whether modifications including pressure, technique, and duration of treatment are appropriate;
- (2) Acknowledge the limitations of, and contraindications for, massage;

- (3) Refer the client to other professionals or services if the treatment or service is beyond the massage therapists scope of practice;
- (4) Maintain for a minimum period of five (5) years accurate, timely, and organized records of every client;
- (5) Provide massage therapy services that meet or exceed the generally accepted practice of the profession;
- (6) If a plan of care or treatment is appropriate, explain the plan to the client, to others designated by the client, and to appropriate professionals with client permission;
- (7) Unless prohibited by law, be allowed to pool or apportion fees received with other members of a business entity in accordance with any business agreement;
- (8) Practice massage therapy in sanitary and safe conditions; and
- (9) Have the right to refuse to treat any person or part of the body at the licensee's discretion.

Section 3. Standards for Documentation. The massage therapist and client shall agree upon the purpose of the massage session.

- (1) Documentation shall not be required if the massage session is for general relaxation, a sports event massage, or public demonstration as in chair massage.
- (2) If a written plan of treatment is requested or required, the client file shall include the following documentation:
  - (a) The initial evaluation, which shall include:
    1. The client's name, age, and gender;
    2. Date of the session;
    3. Pertinent medical history, including:
      - a. Client sensitivities and allergies;
      - b. Medical diagnoses, if available, and the source of the diagnosis;
      - c. Contraindications; and
      - d. Medications as disclosed by the client;
  - (b) Progress notes signed by the massage therapist rendering the massage therapy, which shall include:
    1. Subjective information including the area of complaint as stated by the client and the date of onset;
    2. Objective information including any observations and objective testing, if applicable;
    3. Ongoing assessments, if applicable;
    4. Actions taken by the massage therapist; and
    5. The client response to massage therapy treatment; and
  - (c) A plan of treatment, if applicable, consisting of:
    1. Modalities to be rendered;
    2. Frequency and duration of treatment;
    3. Referral to other professionals, if indicated;
    4. Client self-help education and instruction; and
    5. The goals or desired outcome of the treatment. (32 Ky.R. 1020; 1228; eff. 2-3-2006; 37 Ky.R. 1018; 1700; 1992; eff. 3-4-2011.)

**201 KAR 42:070. Endorsement.**

RELATES TO: KRS 309.358, 309.359

STATUTORY AUTHORITY: KRS 309.355(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 309.359 authorizes the board to issue a license to a person holding a credential in another state of the United States. KRS 309.355(3) requires the board to promulgate administrative regulations to implement KRS 309.350 through 309.364. This administrative regulation establishes the application process for issuance of a license to a person holding a credential in another state of the United States.

Section 1. An applicant Meeting Equal or Higher Standards. An applicant holding a license issued by another state with licensure standards equal to or higher than the requirements of KRS 309.358 shall submit:

(1) A completed Application for Licensure as a Massage Therapist, which is incorporated by reference in 201 KAR 42:035;

(2) A verifiable statement that the individual is in good standing as a massage therapist from the credentialing authority of the jurisdiction in which the applicant holds a license or credential including duration of the license or credential; and

(3) The appropriate fee for licensure as required by 201 KAR 42:020, Section 2(1).

Section 2. An Applicant Meeting Lesser Standards. An applicant who is credentialed as a massage therapist in another state with less stringent requirements than KRS 309.358 shall submit:

(1) A completed Application for Licensure as a Massage Therapist, which is incorporated by reference in 201 KAR 42:035;

(2) A certified statement that the individual is in good standing as a massage therapist from the credentialing authority of the jurisdiction in which the applicant holds a license or credential including duration of the license or credential;

(3) The appropriate fee for licensure as required by 201 KAR 42:020, Section 2(1); and

(4) Documents evidencing the applicant's combined initial training, professional experience, continuing education, or other credentials constituting equivalency to KRS 309.358. Acceptable documentation may include:

(a) Passage of the National Certification Board of Therapeutic Massage and Bodywork's National Certification Exam (NCE) or an examination that has been approved by the board pursuant to 201 KAR 42:035;

(b) Certified school transcripts received directly from the massage school;

(c) Copies of continuing education certificates from studies completed after or not included as part of the initial training;

(d) Certified transcript of health care related academic course work;

(e) Proof of teaching massage therapy relevant curriculum as stated in KRS 309.363;

(f) Other credentials that may constitute equivalence to the standards in KRS 309.358, which may also include research, clinical internships, publications, and massage therapy leadership positions; or

(g) Current proof of hands-on therapeutic massage or bodywork sessions with supporting documentation for the hours or years of massage therapy work.

1. The supporting documentation shall include:

a. Appointment books, employer verification, and log books; or

b. If self-employed, appointment books.

2. If this is the only documentation to establish equivalency, a minimum of four (4) years' experience shall be required. (33 Ky.R. 2227; Am. 2936; eff. 4-6-07; 37 Ky.R. 1020; 1704; 1993; eff. 3-4-2011; 39 Ky.R. 1939; 2164; eff. 5-31-2013.)

## **201 KAR 42:080. Programs of massage therapy instruction.**

RELATES TO: KRS 309.352(2), 309.355(3), 309.358(4), 309.363(1), 309.3631

STATUTORY AUTHORITY: KRS 309.355(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 309.352(2) requires the board to define licensed health-care professionals for the supervision of massage therapy students in clinical settings. KRS 309.355(3) requires the board to promulgate administrative regulations on standards of massage therapy educational program curriculum and instructor qualifications. KRS 309.358(4) requires the board to approve massage therapy training programs. KRS 309.363 requires board approval of massage therapy programs of instruction and establishes instructor qualifications. This administrative regulation establishes the definitions of supervision and qualifying supervisors and establishes the process for issuing and renewing the Certificate of Good Standing to a program of massage therapy education.

Section 1. Definitions. (1) "Adjunctive course" means a course in a program of education that enhances the career of a massage therapist but is not massage theory, technique, or practice.

(2) "Clinic" or "clinical" means a setting in which students are provided with on-site supervision and training in the practice of massage therapy.

(3) "Clinical coordinator" means the instructor of a massage therapy course in which students are assigned to perform massage therapy sessions on non-students, on or off-campus, and who is responsible for assigning the student to an appropriate clinical setting, supervision of student performance through regular consultation with the student, and evaluating student achievement of clinical course objectives.

(4) "Externship" means a course offered by an approved program that:

(a) Has a syllabus that describes objectives and evaluations; and

(b) Is over and above the 600 supervised curriculum hours required for licensure.

(5) "Other licensed healthcare professional" means a practitioner as established in KRS 309.352(9)(a) through (c), (e), and (f) who may supervise a massage therapy student in a business.

(6) "Supervision" means the process of verifying attendance, assigning work, consulting with the student, evaluating student performance, and being available for emergency assistance.

Section 2. A program applying for a Certificate of Good Standing for a Massage Therapy Training Program shall file a completed, signed, and dated application and required documentation with the board, meeting the requirements set forth in KRS 309.363(1), (a), (b), and (c). Documentation shall include:

(1) A copy of the current license to operate issued by the Kentucky State Board for Proprietary Education, the Council on Postsecondary Education, or their equivalent in the state in which the school is conducting classes;

- (2) A curriculum statement as described in KRS 309.363(1)(b)1, 2, 3, 4, and 5 showing clock hours for each of the required subjects;
- (3) A listing of instructional staff and their qualifications, including:
  - (a) Documentation of current licensure of massage instructors; and
  - (b) Resume, CV or PE-11 form for all instructors showing the specific qualifications for teaching an adjunctive or science course;
- (4) A description of the policies and procedures in place for collecting and analyzing data about the quality and effectiveness of educational programs including student progress, completion, and licensure;
- (5) A copy of the program or school catalogue;
- (6) Documentation of accreditations held by the program or school offering the program; and
- (7) A copy of a student contract agreeing not to accept compensation for massage therapy services provided prior to licensure by the board.

Section 3. A Certificate of Good Standing may be renewed upon:

- (1) Submission of the Application for Renewal of a Certificate of Good Standing for a Massage Therapy Training Program form with the information required by this administrative regulation to the board on or before the anniversary date of issue of certificate;
- (2) Current complete name, address, email address, Web site, and telephone number of each location in which the massage therapy training program is provided;
- (3) Current listing of instructional staff and their qualifications, with attached documentation of qualifications of new instructors;
- (4) A current curriculum statement as described in KRS 309.363(1)(b)1, 2, 3, 4, and 5;
- (5) A curriculum statement for new programs of massage therapy added to the school's original offering, such as an Associates Degree Program, if the new program may be used to meet initial qualifications for licensure;
- (6) A statement with supporting statistics to show student completion, examination pass rates, licensure rates, and placement rates;
- (7) Documentation of accreditation reviews and renewals, if held; and
- (8) A statement with supporting documentation showing proof that at least seventy (70) percent of the graduates of the program who have taken the MBLEx and NCBTMB Exam over the twelve (12) months prior to application have received a passing score. Failure to supply proof of meeting this standard shall be grounds for denial of a program's request for certification of good standing.

Section 4. Externships and Clinicals. (1) A student completing an externship or clinical experience shall not receive compensation.

(2) Massage schools or businesses that provide any type of student massage shall conspicuously include the respective words "student massage" in all promotional materials, and shall conspicuously display a written notice in the waiting room or treatment area that services are being provided by a student.

(3) Clinical courses awarding credit hours toward the 600 hours required for licensure shall be supervised by a licensed massage therapist with three (3) years of experience and available for on-site consultation.

(a) Massage sessions offered as part of a student clinic shall be evaluated by the instructor, and appropriate goals for improvement in areas such as customer service, technique, body mechanics, and draping shall be set according to the needs of the student.

(b) Student massage clinics shall be supervised by a massage therapy instructor in the clinic.

(c) Student clinic client records shall be maintained at the school and shall meet the Standards for Documentation established In 201 KAR 42:060, Sections 3 and 2(4), and record of payment shall be made available to the client upon request.

(4) The instructor of the externship course shall provide:

(a) Clear, written learning objectives to students and their site supervisors;

(b) Planned opportunities to discuss the externship experience at regular intervals with the student, and with the site supervisor; and

(c) A mechanism for evaluating student performance in the externship experience, presented to the student and the site supervisor at the beginning of the course.

(5) A program offering an externship course shall have a written agreement signed by the institution or program director and the externship site personnel that clearly defines the responsibilities of the onsite supervisor, the clinical coordinator, and the student. An externship course shall be limited to no more than twenty (20) percent of the total program hours. The externship course if offered, shall be completed after the primary 600 supervised curriculum hours required by KRS 309.363(1)(b).

(6) A program offering an externship course shall have liability insurance to cover student activities within the course.

(7) Externship sites shall have a licensed massage therapist or other licensed healthcare professional onsite to be available for emergencies or consultation.

(a) Externs may accrue hours for reception, documentation, or business-related activities other than hands-on massage services while the site supervisor is off-premises.

(b) A student session at an externship site may occur with the site supervisor available by phone if the client of the session is on staff of the externship site or another extern, and a member of the professional staff is on premises for emergency assistance.

(8) Externship client records shall be maintained at the externship site and shall meet the Standards for Documentation established in 201 KAR 42:060, Sections 3 and 2(4), and record of payment shall be available to the client upon request.

Section 5. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Application for a Certificate of Good Standing for a Massage Therapy Training Program", April 2013; and

(b) "Application for a Certificate of Good Standing of a Massage Therapy Training Program Renewal Short Form", February 2013.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Division of Occupations and Professions, 911 Leawood Drive, Frankfort, Kentucky 40601, (502) 564-3296, Monday through Friday, 8 a.m. to 4:30 p.m. (37 Ky.R. 1113; 1705; 1994; eff. 3-4-2011; 39 Ky.R. 1941; 2165; eff. 5-31-2013.)

## **201 KAR 42:110. Continuing education requirements**

RELATES TO: KRS 309.355, 309.361

STATUTORY AUTHORITY: KRS 309.355(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 309.355(3) requires the board to promulgate an administrative regulation establishing a requirement for continuing education as a condition for renewal of a license. KRS 309.361 identifies the requirements for continuing education and prescribes the types of courses required during the renewal period. This administrative regulation establishes the procedures and standards for submitting documentation to meet the continuing education requirements for renewal of a license.

### **Section 1. Definitions.**

- (1) "ABMP" means the Associated Bodywork and Massage Professionals.
- (2) "AMTA" means the American Massage Therapy Association.
- (3) "AOBTA" means the American Organization for Bodywork Therapies of Asia.
- (4) "Board" is defined by KRS 309.350(1).
- (5) "CE hour" means continuing education hours consisting of fifty (50) minutes of an organized learning activity that is either didactic or clinical experience and shall exclude meals, breaks, and registration.
- (6) "Competency" means the study, development, and demonstration of knowledge and skills in meeting professional expectations as a massage therapist.
- (7) "Continuing education" means participation in an approved program or learning experience that is designed to facilitate continued competency including ethical and legal practice in the therapeutic massage and bodywork profession through participation in a learning process that enhances the licensee's current knowledge, skills, and abilities in the profession.
- (8) "NCBTMB" means the National Certification Board for Therapeutic Massage and Bodywork.
- (9) "NCCAOM" means the National Certification Commission for Acupuncture and Oriental Medicine.
- (10) "Provider" means an organization, entity, or individual that has met the requirements of the board to provide educational courses that are designed to ensure continued competence in the practice of massage therapy.
- (11) "Self-paced learning" means a course designated for an individual to learn at his or her own pace and is often referred to as correspondence or home study with testing or an evaluation process.

### **Section 2. Accrual of CE Hours; Computation of Accrual.**

- (1) (2) year licensure period for renewal of a license, beginning on the date of license issue.
- (2) A minimum of three (3) of the twenty-four (24) hours required by subsection (1) shall be accrued in the field of professional ethics.
- (3) All hours shall be in or related to the field of massage therapy.

### **Section 3. Acquisition of CE Hours.**

- (1) CE hours applicable to the renewal of a license shall be directly related to the professional growth and development of massage therapy practitioners. CE hours may be earned by completing any of the following educational activities:

- (a) Courses not requiring board review and approval. Courses from the following sources shall be deemed relevant to the practice of massage therapy and shall be approved:
  - 1. Courses and Learning Opportunities approved by the NCBTMB;
  - 2. Courses offered by the AMTA and its state affiliates;
  - 3. Courses approved by the NCCAOM;
  - 4. Courses offered by the AOBTA and its state affiliates;
  - 5. Courses offered by the ABMP;
  - 6. Kentucky board approved massage therapy programs of instruction or massage therapy programs duly licensed to operate in other states; and
  - 7. Relevant academic courses completed in a degree-granting college or university accredited by an agency that is approved by the Council on Higher Education Accreditation (CHEA).
- (2) Programs requiring board review and approval. All other programs, including home study courses and in-service training provided by organizations, educational institutions, or other service providers not listed in subsection (1)(a) of this section, and programs or academic courses presented by the licensee require approval by the board.
- (3) Presenters of relevant programs or academic courses may earn double continuing education credit for the length of presentation time, not to exceed twelve (12) hours per renewal cycle.
- (4) Credit shall not be issued for repeated instruction of the same course.
- (5) A licensee shall not receive credit for completing the same CE course within the two (2) year renewal period.

#### Section 4. Documentation of CE Hours.

- (1) A licensee shall furnish the following information regarding completion of the appropriate number of CE hours for the current renewal period:
  - (a) Name of course, date, and the author or instructor;
  - (b) Name of providing organization and the location of the course;
  - (c) The number of hours attended;
  - (d) Provider number;
  - (e) Provider name and telephone number for board verification;
  - (f) Official transcripts with a raised seal showing academic credits and grades awarded if courses are received from a university, college, or vocational technical adult education facility; and
  - (g) Documentation of completion, if requested by the board.
- (2) A licensee who supplies false information to the board in order to comply with the CE requirements of this administrative regulation shall be subject to disciplinary action that may include suspension or revocation of license.

#### Section 5. Procedures for Preapproval of Continuing Education Courses.

- (1) An entity seeking to obtain approval of a continuing education course prior to its offering shall complete a Continuing Education Program Application and submit it to the board at least sixty (60) days in advance of the commencement of the course, stating the:
  - (a) Type of learning activity;
  - (b) Subject matter;

- (c) Names and qualifications of the instructors;
  - (d) Number of continuing education hours offered; and
  - (e) Statement of how the CE course relates to massage therapy.
- (2) A CE activity shall be preapproved if the activity being presented:
- (a) Is an organized course of learning;
  - (b) Pertains to subject matters that integrally relate to the practice of massage therapy;
  - (c) Contributes to the professional competency of the licensee; and
  - (d) Is conducted by an individual with approved educational training or experience.
- (3) The board shall review preapproval requests at the board meeting immediately following the submittal and receipt of all required materials.

**Section 6. Responsibilities and Reporting Requirements of Licensees. A licensee shall:**

- (1) Identify the licensee's own continuing education needs, take the initiative in seeking continuing professional education activities to meet these needs, and seek ways to integrate new knowledge, skills, and attitudes;
- (2) Select approved activities by which to earn CE hours;
- (3) Maintain records of CE hours, for a period of two (2) years from the date of renewal; and
- (4) Document attendance and participation in a CE activity by providing official transcripts, copies of certificates, or verification of completion, if requested.

**Section 7. Carry-over of CE Hours.**

- (1) A maximum of twelve (12) CE hours may be carried over into the next renewal period.
- (2) A licensee shall maintain records related to carry-over continuing education hours and submit those continuing education hours to the board if the licensee elects to utilize those hours for the fulfillment of the continuing education requirement for the current renewal period.
- (3) A continuing education course shall only be used for the fulfillment of the continuing education requirement for a single renewal period and shall not be subdivided for utilization in multiple renewal periods.

**Section 8. Appeal Procedure If Approval for CE Hours is Denied.**

- (1) If an application for approval of CE hours is disapproved, the licensee may request reconsideration by the board. The request shall be in writing and shall be received by the board within thirty (30) days after the date of the board's decision denying approval of the CE hours.

**Section 9. Audit of CE Activities.** The board may audit the documentation of a licensee's CE hours for the current renewal period. If notified by the board, the licensee shall respond to the audit within thirty (30) days of the date of the request.

**Section 10. Waiver or Extension of Continuing Education.**

- (1) The board shall, in individual cases involving medical disability, illness, undue hardship, active military service, or other similar extenuating circumstance that preclude the individual's completion of the requirements, waive CE requirements or grant an extension of time within which to fulfill the requirements if the board receives:
  - (a) A written request for waiver or extension of time;
  - (b) Verifying documentation signed by a licensed physician; or

- (c) Documentation to support the waiver.
- (2) A waiver of the minimum CE requirements or an extension of time within which to fulfill the CE requirements may be granted by the board for a period not to exceed one (1) calendar year. If the circumstance extends beyond the period of the waiver or extension, the licensee shall reapply for the waiver or extension.

Section 11. Incorporation by Reference.

- (1) "Continuing Education Program Application", October 2005, is incorporated by reference.
- (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Division of Occupations and Professions, 911 Leawood Drive, Frankfort, Kentucky 40602, (502) 564-3296, Monday through Friday, 8 a.m. to 4:30 p.m. (32 Ky.R. 1022; 1229; eff. 2-3-2006; 33 Ky.R. 1887; 2229; eff. 4-6-07; 37 Ky.R. 1022; 1996; eff. 3-4-2011.)